

ASSEMBLY BILL

No. 1000

Introduced by Assembly Members Dutra and Goldberg

February 20, 2003

An act to amend Sections 1502 and 2117 of the Corporations Code, relating to corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1000, as introduced, Dutra. Corporations: disclosure statement.

Existing law, the General Corporation Law, requires a domestic corporation and a foreign corporation to file statements annually with the Secretary of State disclosing specified information concerning its operation and makes the information contained in the statements open to public inspection.

This bill would require that these statements also include a description of any stock option plan that the corporation has for its employees or executives.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1502 of the Corporations Code is
2 amended to read:

3 1502. (a) (1) ~~Every~~ A corporation shall file, within 90 days
4 after the filing of its original articles and annually thereafter during
5 the applicable filing period, on a form prescribed by the Secretary
6 of State, a statement containing all of the following:

1 (A) The names and complete business or residence addresses
2 of its incumbent directors.

3 (B) The number of vacancies on the board, if any.

4 (C) The names and complete business or residence addresses of
5 its chief executive officer, secretary, and chief financial officer.

6 (D) The street address of its principal executive office.

7 (E) If the address of its principal executive office is not in this
8 state, the street address of its principal business office in this state,
9 if any.

10 (F) A statement of the general type of business that constitutes
11 the principal business activity of the corporation (for example,
12 manufacturer of aircraft; wholesale liquor distributor; or retail
13 department store).

14 (2) In addition to ~~all of~~ the information required by paragraph
15 (1), ~~every~~ a publicly traded company shall also include the
16 following information in the statement:

17 (A) The name of the independent auditor used by the
18 corporation and a description of any other services, ~~if any,~~
19 performed for the corporation during the previous 24 months by
20 the independent auditor, by its parent corporation, or by a
21 subsidiary or corporate affiliate of the independent auditor or its
22 parent corporation.

23 (B) The date of the last report prepared for the corporation by
24 the independent auditor. The corporation shall attach a copy of the
25 report to the statement.

26 (C) The annual compensation paid to each member of the board
27 of directors and each executive officer, including the number of
28 any shares or options for shares that were not available to other
29 employees of the corporation.

30 (D) A description of any loans made to a member of the board
31 of directors by the corporation at a preferential loan rate during the
32 previous 24 months, including the amount and terms of the loans.

33 (E) A statement indicating whether any bankruptcy was filed
34 by the corporation, its executive officers, or members of the board
35 of directors within the previous 10 years.

36 (F) A statement indicating whether any member of the board of
37 directors or executive officer of the corporation was convicted of
38 fraud during the previous 10 years.

39 (G) A statement indicating whether the corporation violated
40 any federal security laws or any security or banking provision of

1 California law during the previous 10 years for which the
2 corporation was found liable in an action before a federal or state
3 court or regulatory agency or a self-regulatory organization in
4 which a judgment over ten thousand dollars (\$10,000) was
5 entered.

6 *(H) A description of any stock option plan that the corporation*
7 *has for its employees or executives.*

8 (3) For purposes of this section, the following definitions
9 apply:

10 (A) “Publicly traded company” means a company with
11 securities that are either listed or admitted to trading on a national
12 or foreign exchange, or is the subject of two-way quotations, such
13 as both bid and asked prices, that is regularly published by one or
14 more broker-dealers in the National Daily Quotation Service or a
15 similar service.

16 (B) “Executive officer” means the five most highly
17 compensated officers of the company, excluding any officer who
18 is also a member of the board of directors.

19 (b) The statement required by subdivision (a) shall also
20 designate, as the agent of the corporation for the purpose of service
21 of process, a natural person residing in this state or a corporation
22 that has complied with Section 1505 and whose capacity to act as
23 an agent has not terminated. If a natural person is designated, the
24 statement shall set forth that person’s complete business or
25 residence address. If a corporate agent is designated, no address for
26 it shall be set forth.

27 (c) If there has been no change in the information in the last
28 filed statement of the corporation on file in the Secretary of State’s
29 office, the corporation may, in lieu of filing the statement required
30 by subdivisions (a) and (b), advise the Secretary of State, on a form
31 prescribed by the Secretary of State, that no changes in the
32 required information have occurred during the applicable filing
33 period.

34 (d) For the purposes of this section, the applicable filing period
35 for a corporation shall be the calendar month during which its
36 original articles were filed and the immediately preceding five
37 calendar months. The Secretary of State shall mail a form for
38 compliance with this section to each corporation approximately
39 three months prior to the close of the applicable filing period. The
40 form shall state the due date thereof and shall be mailed to the last

1 address of the corporation according to the records of the Secretary
2 of State. The failure of the corporation to receive the form is not
3 an excuse for failure to comply with this section.

4 (e) Whenever any of the information required by subdivision
5 (a) is changed, the corporation may file a current statement
6 containing all the information required by subdivisions (a) and (b).
7 In order to change its agent for service of process or the address of
8 the agent, the corporation must file a current statement containing
9 all the information required by subdivisions (a) and (b). Whenever
10 ~~any~~ a statement is filed pursuant to this section, it supersedes any
11 previously filed statement and the statement in the articles as to the
12 agent for service of process and the address of the agent.

13 (f) The Secretary of State may destroy or otherwise dispose of
14 ~~any~~ a statement filed pursuant to this section after it has been
15 superseded by the filing of a new statement.

16 (g) This section shall not be construed to place ~~any~~ a person
17 dealing with the corporation on notice of, or under any duty to
18 inquire about, the existence or content of a statement filed pursuant
19 to this section.

20 (h) The statement required by subdivision (a) shall be available
21 and open to the public for inspection. The Secretary of State, no
22 later than December 31, 2004, shall provide access to all
23 information contained in this statement by means of an online
24 database.

25 (i) In addition to any other fees required, a corporation shall pay
26 a five-dollar (\$5) disclosure fee when filing the statement required
27 by subdivision (a). One-half of the fee shall be utilized to further
28 the provisions of this section, including the development and
29 maintenance of the online database required by subdivision (h),
30 and one-half shall be deposited into the Victims of Corporate
31 Fraud Compensation Fund established in Section 1502.5.

32 (j) A corporation shall certify that the information it provides
33 pursuant to subdivisions (a) and (b) is true and correct. No claim
34 may be made against the state for inaccurate information contained
35 in the statements.

36 SEC. 2. Section 2117 of the Corporations Code is amended to
37 read:

38 2117. (a) (1) Every foreign corporation (other than a foreign
39 association) qualified to transact intrastate business shall file,
40 annually during the applicable filing period, on a form prescribed

1 by the Secretary of State, a statement containing *all of the*
2 *following*:

3 (A) The names and complete business or residence addresses
4 of its chief executive officer, secretary, and chief financial officer.

5 (B) The street address of its principal executive office.

6 (C) The street address of its principal business office in this
7 state, if any.

8 (D) A statement of the general type of business that constitutes
9 the principal business activity of the corporation (for example,
10 manufacturer of aircraft; wholesale liquor distributor; or retail
11 department store).

12 (2) In addition to ~~all of~~ the information required by paragraph
13 (1) every publicly traded company shall also include the following
14 information in the statement:

15 (A) The name of the independent auditor used by the
16 corporation and a description of any other services, ~~if any,~~
17 performed for the corporation during the previous 24 months by
18 the independent auditor, by its parent corporation, or by an agent,
19 subsidiary, corporate partner, or corporate affiliate of the
20 independent auditor or its parent corporation.

21 (B) The date of the last report prepared for the corporation by
22 the independent auditor. The corporation shall attach a copy of the
23 report to the statement.

24 (C) The annual compensation paid to each member of the board
25 of directors and each executive officer, including the number of
26 any shares or options for shares that were not available to other
27 employees of the corporation.

28 (D) A description of any loans made to a member of the board
29 of directors by the corporation at a preferential loan rate during the
30 previous 24 months, including the amount and terms of the loans.

31 (E) A statement indicating whether any bankruptcy was filed
32 by the corporation, its executive officers, or members of the board
33 of directors within the previous 10 years.

34 (F) A statement indicating whether any member of the board of
35 directors or executive officer of the corporation was convicted of
36 fraud during the previous 10 years.

37 (G) A statement indicating whether the corporation violated
38 any federal security laws or any banking or security provision of
39 California law during the previous 10 years for which the
40 corporation was found liable in an action before a federal or state

1 court or regulatory agency or a self-regulatory agency in which a
2 judgment over ten thousand dollars (\$10,000) was entered.

3 If the executive officers of the corporation use other titles, the
4 statement shall include the officers performing comparable duties
5 under other titles. If the corporation has no executive officers, or
6 has no executive officers who are natural persons, the statement
7 shall include the names of natural persons performing comparable
8 duties for the corporation pursuant to a management contract or
9 other arrangement.

10 *(H) A description of any stock option plan that the corporation*
11 *has for its employees or executives.*

12 (3) For purposes of this section, the following definitions
13 apply:

14 (4) “Publicly traded company” means a company with
15 securities that are either listed or admitted to trading on a national
16 or foreign exchange, or is the subject of two-way quotations, such
17 as both bid and asked prices, that is regularly published by one or
18 more broker-dealers in the National Daily Quotation Service or a
19 similar service.

20 (B) “Executive officer” means the five most highly
21 compensated officers of the company, excluding any officer that
22 is also a member of the board of directors.

23 (b) The statement required by subdivision (a) shall also
24 designate, as the agent of the corporation for the purpose of service
25 of process, a natural person residing in this state or a corporation
26 that has complied with Section 1505 and whose capacity to act as
27 the agent has not terminated. If a natural person is designated, the
28 statement shall set forth the person’s complete business or
29 residence address. If a corporate agent is designated, no address for
30 it shall be set forth.

31 (c) The statement and designation required by subdivision (a)
32 shall be available and open to the public for inspection. The
33 Secretary of State, no later than December 31, 2004, shall provide
34 access to all information contained in the statement and
35 designation by means of an online database.

36 (d) In addition to any other fees required, a foreign corporation
37 shall pay a five-dollar (\$5) disclosure fee upon filing the statement
38 and designation required by subdivision (a). One-half of the fee
39 shall be utilized to further the provisions of this section, including
40 the development and maintenance of the online database required

1 by subdivision (d), and one-half shall be deposited into the Victims
2 of Corporate Fraud Compensation Fund established in Section
3 1502.5.

4 (e) Whenever any of the information required by subdivision
5 (a) is changed, the corporation may file a current statement
6 containing all the information required by subdivisions (a) and (b).
7 In order to change its agent for service of process or the address of
8 the agent, the corporation shall file a current statement containing
9 all the information required by subdivisions (a) and (b). Whenever
10 ~~any~~ a statement is filed pursuant to this section, it supersedes any
11 previously filed statement and the statement in the filing pursuant
12 to Section 2105.

13 (f) Subdivisions (c), (d), (f), and (g) of Section 1502 apply to
14 statements filed pursuant to this section except that “articles” shall
15 mean the filing pursuant to Section 2105.

